

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII  
999 18TH STREET, SUITE 500  
DENVER, COLORADO 80202-2466

AUTHORIZATION TO DISCHARGE UNDER THE  
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act, as amended, (33 U.S.C. §1251 et seq; the "Act"), and Part I.C. of this permit, operators of wastewater treatment lagoons located on the Crow Creek Indian Reservation,

are authorized to discharge at locations within the geographical boundaries of the Crow Creek Indian Reservation

to waters of the United states,

in accordance with the effluent limitations, monitoring requirements and other conditions set forth herein.

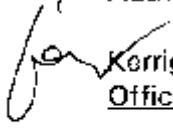
This permit shall become effective December 1, 1998

This permit and the authorization to discharge shall expire at midnight,  
September 30, 2003

Signed this 9 day of NOVEMBER, 1998

  
Authorized Permitting Official

GEN(E) (Rev. 9/98)

  
Kerrigan G. Clough, Assistant Regional Administrator  
Office of Partnerships and Regulatory Assistance  
Title

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## COVERAGE UNDER THIS PERMIT

A. Introduction

This general permit is intended for the permitting of wastewater lagoon systems that treat mostly domestic sewage and are located within the boundaries of the specified Indian Reservation. Authorization for coverage under this permit will be limited to one of the following three categories and will be determined by the permit issuing authority:

Category 1 - No prior permission is required before starting to discharge;

Category 2 - Prior permission is required before starting to discharge; or

Category 3 - The lagoon system is required to have no discharge.

The basic requirements for each of the three categories are specified in Parts III, IV, and V, respectively, of the permit. If additional requirements (e.g., additional effluent limitations) are necessary to comply with applicable water quality standards, etc., those requirements will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

B. Permit Area This general permit covers the area within the boundaries of the specified Indian Reservation.C. Eligibility

1. This permit provides coverage for wastewater lagoon systems treating mainly domestic sewage. The wastewater lagoon system may not receive any significant industrial discharge contributions. The permit issuing authority has the final determination as to whether any non-domestic wastewater is considered a significant industrial discharge contribution.
2. Limitations on Coverage: Wastewater lagoon systems that have been issued an individual permit or required to obtain coverage under an alternative general permit in accordance with Part VIII.Q. are not authorized by this permit.
3. A wastewater lagoon system that has an individual permit, other than an individual permit required under Part VIII.Q., may request that the individual permit be revoked, and that it be covered by this general permit. Upon submittal of the necessary notice of intent information and revocation of the individual permit, this general permit shall apply to the wastewater lagoon system.

D. Obtaining Authorization

1. In order for a discharge from an eligible wastewater lagoon system to be authorized to discharge under this general permit:
  - a. The operator of the lagoon system must submit a complete Notice of Intent (NOI) in accordance with the requirements of Part II and the operator receives a written notice of authorization from the permit issuing authority; or,
  - b. The Director may notify the operator of a wastewater lagoon system that it is covered by this general permit even if the operator has not submitted a notice of intent to be covered by the general permit.

The Director may deny coverage under this general permit and require submittal of an application for an individual NPDES permit based on a review of the NOI or other information.

## NOTICE OF INTENT REQUIREMENTS

## A. Deadlines for Notification

The Notice of Intent must be submitted at least thirty (30) days before:

1. The expected start of discharge from the wastewater lagoon system; or,
2. The date when the operator wants authorization to begin.

## B. Contents of The Notice of Intent

The Notice of Intent to be authorized to discharge under the provisions of this permit shall be submitted in letter format and include the information listed below:

1. Facility's official or legal name.
2. Legal name, mailing address, and phone number of the owner of the facility.
3. Name, mailing address, and phone number of the organization or entity that operates the facility, if different from owner.
4. Name, title, and work phone number of the contact person for the facility. This should be a person that is familiar with the day-to-day operation of the facility.
5. Location of facility: Give section (to nearest quarter section) township, and range (e.g., NW 1/4 sec.5, T.33 N., R.9 W.); latitude and longitude to the nearest 15 seconds; and, if applicable, the street address, and city.
6. Is the discharge from this facility located on Indian Lands?
7. Does this facility have or did it previously have an individual NPDES permit? If yes, give the number of the permit and the status of the permit.
8. Name of the waterway that will receive the discharge from the lagoon system. If the name of the waterway is unknown, give the name of the first downstream waterway (stream or lake) that the name is known (e.g., unnamed tributary of Rock Creek).
9. For each discharge point from which the facility has either an existing or potential release of treated or untreated wastewater, assign an outfall number (e.g., 001, 002, 003, etc.) and provide a brief description of the discharge point (e.g., 001, outlet from cell number 3; 002, overflow structure on cell no. 2; 003, bypass structure at headworks of lagoon system, etc.). **Include intermittent or non-continuous overflows, bypasses or seasonal discharges.** If outfall numbers have been assigned on a previous permit application for this facility, the same designation shall be used.

## B. Contents of The Notice of Intent (Continued)

10. A map and/or diagram showing the location of the lagoon system, existing or potential discharge points, and the receiving waterway. Label discharge points by outfall number. All maps and diagrams are to be on 8 ½" by 11" paper. It is acceptable to use a photocopy of the appropriate part of a 7 ½ minute USGS quadrangle map with the necessary information added as appropriate.
11. Provide the following plant design and treatment data:
  - a. Give the year the lagoon system was originally constructed and the year(s) of any additions or modifications;
  - b. A line drawing (flow diagram) of the current treatment system. Show all treatment units and existing or potential discharge points. Label the discharge points with outfall numbers;
  - c. A brief description of the types of treatment units employed by the facility;
  - d. For each cell of the lagoon system, give the surface area (in acres or square feet) and the capacity (in million gallons);
  - e. The average and peak design flow (mgd);
  - f. The average and peak design organic treatment capacity (pounds of BOD5 per day or design population);
  - g. Has sludge ever been removed from the lagoon system? If yes, give the years when it was dredged and the approximate quantity removed.
12. List any changes or improvements to the facility, either currently underway or anticipated over the next five (5) years, which will affect the quality of the discharge. Provide a narrative description of each improvement.
13. For each item identified in number 12 above, provide projected dates, as accurately as possible, for completion of each step listed below:
  - a. Beginning Construction Date: \_\_\_\_\_
  - b. Ending Construction Date: \_\_\_\_\_
  - c. Beginning Discharge Date: \_\_\_\_\_
  - d. Operational Level Attained: \_\_\_\_\_
14. What is the total estimated average daily waste flow, in mgd, from all non-domestic industrial sources?

## B. Contents of The Notice of Intent (continued)

15. List each industrial user of the sewer system which meets any of the following criteria:
  - a. Subject to National Categorical Pretreatment Standard;
  - b. Discharges 25,000 gallons per day or more of process wastewater;
  - c. Contributes process wastewater which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the treatment system; or,
  - d. Has a reasonable potential to adversely affect the treatment system (inhibition, pass-through of pollutants, sludges contamination, or endangerment of the operators of the sewer system or treatment system).
16. Does the treatment system receive any trucked-in wastes, including septage haulers? If yes, describe the kinds of waste received and if any such waste is subject to any other state, local or federal regulations.
17. List the name and actual (or, if unavailable, estimated) population for each municipality, quasi-municipality, or unincorporated area served.
18. List any discharge sample analyses which are routinely performed by a contract laboratory or consulting firm. For each pollutant listed, give the name, mailing address, and telephone number of the contract laboratory or consulting firm doing the analysis.
19. Is a contractor responsible for any operational or maintenance aspects of your facility? If yes, give the name, mailing address, and telephone number of the contractor and describe the contractor's responsibilities.
20. Specify which of the following categories of operational requirements that you wish to be authorized for coverage under this permit:
  - a. No prior permission is required before starting to discharge (Category 1);
  - b. Prior permission is required before starting to discharge (Category 2); or
  - c. The lagoon system is required to have no discharge (Category 3).

The category of operational requirements authorized for the lagoon system will be specified by the permitting authority in the letter authorizing coverage under this permit. The category of operational requirements approved by the permitting authority may be different from that requested in the Notice of Intent.
21. Report the results of any monitoring of discharges that occurred during the past three (3) years. Include the dates and location of any samples that were taken.

## B. Contents of The Notice of Intent (continued)

The Notice of Intent must be submitted by the organization or entity that has the legal responsibility for operating the wastewater lagoon system, shall be signed in accordance with the requirements of Part VIII.G., and the person signing the Notice of Intent shall make the following certification:



I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Upon review of the NOI, the Director may request additional information. **Authorization to discharge under this permit does not begin until the operator receives written authorization from the Director.**

C. Where to Submit Notice of Intent

The completed NOI must be submitted to the following address:

STATE ASSISTANCE PROGRAM (8P-SA)  
ATTENTION: NPDES PERMITS  
U.S. EPA, REGION VIII  
999 18TH STREET, SUITE 500  
DENVER, CO 80202-2466

A copy of the completed NOI should be submitted to the Crow Creek Sioux Tribe at the following address:

ENVIRONMENTAL DIRECTOR  
CROW CREEK SIOUX TRIBE  
P.O. BOX 380  
FORT THOMPSON, SD 57339

## CATEGORY 1 - NO PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

## A. Effluent Limitations

Effective immediately and lasting through the life of this permit, the quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

Parameter	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
BOD <sub>5</sub> , mg/L	30	45	N/A
Total Suspended Solids, mg/L	30 <u>b/</u>	45 <u>b/</u>	N/A
The pH of the effluent shall not be less than 6.0 nor greater than 9.0 in any single sample or analysis. <u>c/</u>			
The concentration of oil and grease in any single sample shall not exceed 10 mg/L nor shall there be any visible sheen in the receiving water or adjoining shoreline.			

a/ See Definitions, Part IX., for definition of terms.

b/ The Secondary Treatment Regulation (40 CFR Part 133) provides for higher effluent limitations for total suspended solids for waste stabilization ponds provided that: (1) Waste stabilization ponds are the principal process used for secondary treatment; (2) The operation and maintenance data indicate that the above effluent limitations on total suspended solids cannot be achieved; and, (3) The above effluent limitations on BOD<sub>5</sub> are being met.

The permit issuing authority may change the effluent limitations on total suspended solids to the higher limitations without going to public notice upon demonstration of the above criteria. If a facility had the higher effluent limitations on total suspended solids in the previous permit, the permit issuing authority may assign those effluent limitations to that facility effective upon authorization of coverage under this permit.

c/ The Secondary Treatment Regulation (40 CFR Part 133.102(c)) has provisions for pH limitations outside the range of 6.0 -9.0 where it can be demonstrated that: (1) Inorganic chemicals are not added to the waste stream as part of the treatment process; and (2) contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0. The permit issuing authority may change the effluent limitations on pH to outside the range of 6.0 - 9.0 without going to public notice upon demonstration of the above criteria.

Additional requirements (e.g., additional effluent limitations), where necessary to ensure compliance with applicable water quality standards, etc., will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

## CATEGORY 1 - NO PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

## B. Self-Monitoring Requirements

As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred. Additional monitoring requirements necessary to ensure that the discharge will not violate water quality standards and/or where additional effluent limitations have been imposed, will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

Parameter	Frequency	Sample Type <u>a/</u>
Flow, MGD <u>b/</u>	Weekly	Instantaneous
BOD <sub>5</sub> , mg/L	Monthly	Grab
Total Suspended Solids, mg/L	Monthly	Grab
pH, standard units	Weekly	Grab
Oil and Grease, Visual	Weekly	Observation
Oil and Grease, mg/L <u>c/</u>	<u>c/</u>	Grab

a/ See Definitions, Part IX., for definition of terms.

b/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in gallons per day) during the reporting period and the daily maximum flow (maximum volume discharged during a 24-hour period) shall be reported.

c/ In the event that an oil sheen or floating oil is observed in the discharge, a grab sample shall be immediately taken, analyzed and reported.

## CATEGORY 1 - NO PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

## C. Inspection Requirements

The permittee shall inspect its wastewater treatment facility on at least a **monthly** basis. The inspection shall be conducted to determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. In addition, the inspection shall be performed to determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility. The permittee shall maintain a notebook recording information obtained during the inspection. At a minimum, the notebook shall include the following:

1. Date and time of the inspection;
2. Name of the inspector(s);
3. The facility's discharge status;
4. The flow rate of the discharge if occurring;
5. Identification of operational problems and/or maintenance problems;
6. Recommendations, as appropriate, to remedy identified problems;
7. A brief description of any actions taken with regard to problems identified; and,
8. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Crow Creek Sioux Tribe.

## CATEGORY 2 - PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

## A. Effluent Limitations

Effective immediately and lasting through the life of this permit, no discharge shall occur until permission has been granted by the permit issuing authority. Permission to discharge does not release the facility from liability should effluent violations occur. The quality of effluent discharged by the facility shall, as a minimum, meet the limitations as set forth below:

Parameter	30-Day Average <u>a/</u>	7-Day Average <u>a/</u>	Daily Maximum <u>a/</u>
BOD <sub>5</sub> , mg/L	30	45	N/A
Total Suspended Solids, mg/L	30 <u>b/</u>	45 <u>b/</u>	N/A
The pH of the effluent shall not be less than 6.0 nor greater than 9.0 in any single sample or analysis. <u>c/</u>			
The concentration of oil and grease in any single sample shall not exceed 10 mg/L nor shall there be any visible sheen in the receiving water or adjoining shoreline.			

a/ See Definitions, Part IX., for definition of terms.

b/ The Secondary Treatment Regulation (40 CFR Part 133) provides for higher effluent limitations for total suspended solids for waste stabilization ponds provided that: (1) Waste stabilization ponds are the principal process used for secondary treatment; (2) The operation and maintenance data indicate that the above effluent limitations on total suspended solids cannot be achieved; and, (3) The above effluent limitations on BOD<sub>5</sub> are being met.

The permit issuing authority may change the effluent limitations on total suspended solids to the higher limitations without going to public notice upon demonstration of the above criteria. If a facility had the higher effluent limitations on total suspended solids in the previous permit, the permit issuing authority may assign those effluent limitations to that facility effective upon authorization of coverage under this permit.

c/ The Secondary Treatment Regulation (40 CFR Part 133.102(c)) has provisions for pH limitations outside the range of 6.0 - 9.0 where it can be demonstrated that: (1) Inorganic chemicals are not added to the waste stream as part of the treatment process; and (2) contributions from industrial sources do not cause the pH of the effluent to be less than 6.0 or greater than 9.0. The permit issuing authority may change the effluent limitations on pH to outside the range of 6.0 - 9.0 without going to public notice upon demonstration of the above criteria.

Additional requirements (e.g., additional effluent limitations) where necessary to ensure compliance with applicable water quality standards, etc., those requirements will be specified in the written notice of authorization of coverage or a subsequent letter from the permit issuing authority.

CATEGORY 2 - PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

B. Self-Monitoring Requirements

1. Applicable when the permittee is requesting permission to discharge.

Prior to the start of any discharge from the treatment system, the permittee shall collect a grab sample between the hours of 11:00 a.m. and 4:00 p.m. from each treatment unit from which it is desired to discharge the water and have the sample analyzed for the following constituents:

BOD<sub>5</sub>, mg/L  
Total Suspended Solids, mg/L  
pH, s.u.

Note: The permit issuing authority may require monitoring for additional pollutants where necessary to ensure that the discharge will not violate water quality standards.

The results of the analyses, along with a request to discharge, shall be provided to the permit issuing authority at the following address unless notified otherwise:

TECHNICAL ENFORCEMENT PROGRAM (8ENF-T)  
ATTENTION: NPDES ENFORCEMENT  
U.S.EPA REGION VIII  
999 18TH STREET, SUITE 500  
DENVER, CO 80202-2466

The request to discharge shall explain why a discharge is needed, when the discharge would start, the expected duration of the discharge, the outfall(s) from which the discharge will occur, the lagoon cell(s) that will be drawn down, and the approximate volume of water to be discharged. The estimated flow condition of the receiving water shall also be reported (i.e., dry, low, normal, high). No discharge shall occur until permission has been granted by the EPA. Permission to discharge does not release the facility from liability should effluent violations occur.

2. Applicable when a discharge is occurring.

During periods of discharge, the permittee shall, as a minimum, monitor the discharge for the constituents listed below at the frequencies and with the types of samples indicated. The sample and measurements shall be representative of the volume and nature of the monitored discharge.

See specific self-monitoring requirements on next page.

## CATEGORY 2 - PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

## 2. Applicable when a discharge is occurring (Continued)

As a minimum, upon the effective date of this permit, the following constituents shall be monitored at the frequency and with the type of measurement indicated; samples or measurements shall be representative of the volume and nature of the monitored discharge. If no discharge occurs during the entire monitoring period, it shall be stated on the Discharge Monitoring Report Form (EPA No. 3320-1) that no discharge or overflow occurred. Additional monitoring requirements necessary to ensure that the discharge will not violate water quality standards and/or where additional effluent limitations have been imposed, will be specified in the written notice of authorization of coverage or subsequent letter from the permit issuing authority.

Parameter	Frequency	Sample Type <u>a/</u>
Flow, MGD <u>c/</u>	<u>b/</u>	Instantaneous
BOD <sub>5</sub> , mg/L	<u>b/</u>	Grab
Total Suspended Solids, mg/L	<u>b/</u>	Grab
pH, standard units	<u>b/</u>	Grab
Oil and Grease, Visual	<u>b/</u>	Observation <u>d/</u>
Oil and Grease, mg/L	<u>d/</u>	Grab

a/ See Definitions, Part IX., for definition of terms.

b/ A minimum of three (3) samples or measurements shall be taken during any discharge of wastewater unless the discharge lasts only two days or less. It is required that a sample be taken at the beginning, middle, and end of the discharge if the discharge is less than one week in duration. If a single, continuous discharge is greater than one week in duration, three (3) samples shall be taken during the first week and one (1) during each following week. All of the samples collected during the 7-day or 30-day period are to be used in determining the averages. If only one (1) sample is collected during the period, it must be considered the same as the average for that period. The permittee always has the option of collecting additional samples if appropriate.

c/ Flow measurements of effluent volume shall be made in such a manner that the permittee can affirmatively demonstrate that representative values are being obtained. The average flow rate (in gallons per day) during the reporting period and the daily maximum flow (maximum volume discharged during a 24-hour period) shall be reported. **The date and time of the start and termination of each discharge shall be reported.**

d/ In the event that an oil sheen or floating oil is observed in the discharge, a grab sample shall be immediately taken, analyzed and reported.

## CATEGORY 2 - PRIOR PERMISSION REQUIRED BEFORE STARTING TO DISCHARGE

## C. Inspection Requirements

The permittee shall inspect its wastewater treatment facility on at least a **monthly** basis. The inspection shall be conducted to determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. In addition, the inspection shall be performed to determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility. The permittee shall maintain a notebook recording information obtained during the inspection. At a minimum, the notebook shall include the following:

1. Date and time of the inspection;
2. Name of the inspector(s);
3. The facility's discharge status;
4. The measured amount of pond freeboard at the outlet works;
5. Identification of operational problems and/or maintenance problems;
6. Recommendations, as appropriate, to remedy identified problems;
7. A brief description of any actions taken with regard to problems identified; and,
8. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Crow Creek Sioux Tribe.



## CATEGORY 3 - THE LAGOON SYSTEM IS REQUIRED TO HAVE NO DISCHARGE

## A. No Discharge Requirements

Effective immediately and lasting through the life of this permit, there shall be no discharge except in accordance with the bypass provisions of this permit. If an unauthorized release occurs or is expected to occur, the permittee shall take the appropriate measures to minimize the discharge of pollutants.

## B. Monitoring Requirements

If an unauthorized release is discovered or expected to occur, the discharge shall be monitored as shown below:

Effluent Characteristic	Sample Type <u>a/</u>
Total Flow, gpm	Instantaneous
BOD <sub>5</sub> , mg/L	Grab
Total Suspended Solids, mg/L	Grab
pH, standard units	Grab
Oil and grease, Visual	Observation
Oil and Grease, mg/L <u>b/</u>	Grab

a/ See Definitions, Part IX.

b/ In the event that an oil sheen or floating oil is observed in the discharge, a grab sample shall be immediately taken, analyzed and reported.

The discharge shall be monitored three times per week during the first week of discharge (sample taken and flow rate measured), including once as soon as practical after the unauthorized release is discovered or when an expected unauthorized release begins, and at weekly intervals thereafter until the unauthorized release stops. If the discharge lasts less than one week in duration, monitoring shall be performed at the beginning, middle, and end of the discharge. If it is not possible to measure the rate of discharge, the rate of discharge shall be estimated. In addition, the permittee shall monitor the duration and approximate volume of each discharge. The permittee shall report the monitoring results using the format on the last page of this permit in accordance with the instructions in Part VI.D.2. A photocopy of the last page may be used.

## CATEGORY 3 - THE LAGOON SYSTEM IS REQUIRED TO HAVE NO DISCHARGE

C. Inspection Requirements

The permittee shall inspect its wastewater treatment facility on at least a **monthly** basis. The inspection shall be conducted to determine if a discharge is occurring, has occurred since the previous inspection, and/or if a discharge is likely to occur before the next inspection. In addition, the inspection shall be performed to determine if proper operation and maintenance procedures are being undertaken at the wastewater treatment facility. The permittee shall maintain a notebook recording information obtained during the inspection. At a minimum, the notebook shall include the following:

1. Date and time of the inspection;
2. Name of the inspector(s);
3. The facility's discharge status;
4. The measured amount of pond freeboard at the outlet works;
5. Identification of operational problems and/or maintenance problems;
6. Recommendations, as appropriate, to remedy identified problems;
7. A brief description of any actions taken with regard to problems identified; and,
8. Other information, as appropriate.

The permittee shall maintain the notebook in accordance with proper record-keeping procedures and shall make the log available for inspection, upon request, by authorized representatives of the U.S. Environmental Protection Agency or the Crow Creek Sioux Tribe.

## MONITORING, RECORDING AND REPORTING REQUIREMENTS

- A. Representative Sampling. Samples taken in compliance with the monitoring requirements established under Parts III, IV, and V shall be collected from the effluent stream prior to discharge into the receiving waters. Samples and measurements shall be representative of the volume and nature of the monitored discharge. Sludge samples shall be collected at a location representative of the quality of sludge immediately prior to use-disposal practice.
- B. Monitoring Procedures. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit. Sludge monitoring procedures shall be those specified in 40 CFR 503, or as specified in the permit.
- C. Penalties for Tampering. The Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate, any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 or by imprisonment for not more than two years or both. Second conviction is punishable by a fine of not more than \$20,000 or by imprisonment of not more than four years, or both.
- D. Reporting of Monitoring Results.

1. Reporting of Effluent Monitoring Results for Category 1 (Part III) Facilities.

Effluent monitoring results obtained during the previous **month** shall be summarized and reported on a Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region VIII's Guidance For Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part VIII.G.), and submitted to the Planning and Targeting Program and the Crow Creek Sioux Tribe at the addresses given in Part VI.D.4. below.

2. Reporting of Effluent Monitoring Results for Category 2 (Part IV) Facilities.

Effluent monitoring results obtained during the previous **calendar quarter** (Jan-Mar, Apr-June, July-Sep, Oct-Dec) shall be summarized and reported on **one** Discharge Monitoring Report Form (EPA No. 3320-1), postmarked no later than the 28th day of the month following the completed reporting period. If no discharge occurs during the reporting period, "no discharge" shall be reported. Until further notice, sludge monitoring results may be reported in the testing laboratory's normal format (there is no EPA standard form at this time), but should be on letter size pages. Whole effluent toxicity (biomonitoring) results must be reported on the most recent version of EPA Region VIII's Guidance For Whole Effluent Reporting. Legible copies of these, and all other reports required herein, shall be signed and certified in

2. Reporting of Effluent Monitoring Results for Category 2 (Part IV) Facilities. (Continued)

accordance with the Signatory Requirements (see Part VIII.G.), and submitted to the Planning and Targeting Program and the Crow Creek Sioux Tribe at the addresses given in Part VI.D.4. below.

3. Reporting of Effluent Monitoring Results for Category 3 (Part V) Facilities

Effluent monitoring results obtained during the duration of each discharge shall be summarized in **the format of the last page of this permit or on a photocopy of the last page of this permit**, postmarked no later than the 28th day of the month following the beginning of the unauthorized release. If the discharge continues into the next month, monitoring results shall be reported monthly until the discharge is terminated. Legible copies of these, and all other reports required herein, shall be signed and certified in accordance with the Signatory Requirements (see Part VIII.G.), and submitted to the EPA Region VIII Planning and Targeting Program and the Crow Creek Sioux Tribe at the addresses given in Part VI.D.4. below.

4. Addresses for Reporting Effluent Monitoring Results

original to:

PLANNING AND TARGETING PROGRAM (8ENF-PT)  
ATTENTION: NPDES ENFORCEMENT  
U.S. EPA, REGION VIII  
999 18TH STREET, SUITE 500  
DENVER, COLORADO 80202-2466

copy to:

ENVIRONMENTAL DIRECTOR  
CROW CREEK SIOUX TRIBE  
P.O. BOX 380  
FORT THOMPSON, SD 57339

- E. Additional Monitoring by the Permittee. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures approved under 40 CFR 136, 40 CFR 503, or as specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR. Such increased frequency shall also be indicated.
- F. Records Contents. Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
  2. The initials or name(s) of the individual(s) who performed the sampling or measurements;
  3. The date(s) analyses were performed;
  4. The time(s) analyses were initiated;
  5. The initials or name(s) of individual(s) who performed the analyses;
  6. References and written procedures, when available, for the analytical techniques or methods used; and,
  7. The results of such analyses, including the bench sheets, instrument readouts, computer disks or tapes, etc., used to determine these results.
- G. Retention of Records. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report or application. Records of monitoring required by this permit related to sludge use and disposal activities must be kept at least five years (or longer as required by 40 CFR 503). This period may be extended by request of the Director at any time. Data collected on site, data used to prepare the DMR, copies of Discharge Monitoring Reports, and a copy of this NPDES permit must be maintained on site.
- H. Twenty-four Hour Notice of Noncompliance Reporting.
1. The permittee shall report any noncompliance which may endanger health or the environment as soon as possible, but no later than twenty-four (24) hours from the time the permittee first became aware of the circumstances. The report shall be made to the EPA, Region VIII, Preparedness, Assessment and Response Program at (303) 293-1788 and the Crow Creek Sioux Tribe at (605) 245-2212.
  2. The following occurrences of noncompliance shall be reported by telephone to the EPA, Region VIII, Technical Enforcement Program at (303) 312-6720 (8:00 a.m. - 4:30 p.m. Mountain Time) and the Crow Creek Sioux Tribe at (605) 245-2212 (8:00 a.m. - 4:30 p.m. local time) by the first workday following the day the permittee became aware of the circumstances:
    - a. Any unanticipated bypass which exceeds any effluent limitation in the permit (See Part VII.G., Bypass of Treatment Facilities.);
    - b. Any unauthorized release;

H. Twenty-four Hour Notice of Noncompliance Reporting (Continued)

- c. Any upset which exceeds any effluent limitation in the permit (See Part VII.H., Upset Conditions.); or,
  - d. Violation of a maximum daily discharge limitation for any of the pollutants listed in the permit to be reported within 24 hours.
3. A written submission shall also be provided to the EPA and to the Crow Creek Sioux Tribe within five days of the time that the permittee becomes aware of the circumstances. The written submission shall contain:
- a. A description of the noncompliance and its cause;
  - b. The period of noncompliance, including exact dates and times;
  - c. The estimated time noncompliance is expected to continue if it has not been corrected; and,
  - d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

The written submission shall be submitted to the following addresses:

Original to:

TECHNICAL ENFORCEMENT PROGRAM (8ENF-T)  
ATTENTION: NPDES ENFORCEMENT  
U.S.EPA REGION VIII  
999 18TH STREET, SUITE 500  
DENVER, CO 80202-2466

Copy to:

ENVIRONMENTAL DIRECTOR  
CROW CREEK SIOUX TRIBE  
P.O. BOX 380  
FORT THOMPSON, SD 57339

4. The Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours by the EPA Region VIII Technical Enforcement Program by phone, (303) 312-6720.
- I. Other Noncompliance Reporting. Instances of noncompliance not required to be reported within 24 hours shall be reported at the time that monitoring reports for Part VI.D. are submitted. The reports shall contain the information listed in Part VI.H.3.

- J. Inspection and Entry. The permittee shall allow the Regional Administrator or authorized representative (including an authorized contractor acting as a representative of the Administrator) upon presentation of credentials and other documents as may be required by law, to:
1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
  2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
  3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and,
  4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act, any substances or parameters at any location.

## COMPLIANCE RESPONSIBILITIES

- A. Duty to Comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. The permittee shall give the director advance notice of any planned changes at the permitted facility or of an activity which may result in permit noncompliance.
- B. Penalties for Violations of Permit Conditions.

The Act provides for specified civil and criminal penalties for violations of its provisions. However, the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996, requires EPA to adjust the civil monetary penalties for inflation on a periodic basis. EPA adjusted its civil monetary penalties on December 31, 1996 (61 Fed. Reg. 69359-69365), with technical corrections and additions published on March 20, 1997 (62 Fed. Reg. 13514-13517) and June 27, 1997 (62 Fed. Reg. 35037-35041). The resulting civil and criminal penalties, as of July 28, 1997, for violations of the Act (including permit conditions) are given below:

1. Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any such sections in a permit issued under section 402, or any requirement imposed in a pretreatment program approved under sections 402(a)(3) or 402(b)(8) of the Act, is subject to a civil penalty not to exceed \$27,500 per day for each violation. The Clean Water Act provides that any person who *negligently* violates sections 301, 302, 306, 307, 308, 318, or 405 of the Act, or any condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, or any requirement imposed in a pretreatment program approved under section 402(a)(3) or 402(b)(8) of the Act, is subject to criminal penalties of \$2,500 to \$25,000 per day of violation, or imprisonment of not more than 1 year, or both. In the case of a second or subsequent conviction for a negligent violation, a person shall be subject to criminal penalties of not more than \$50,000 per day of violation, or by imprisonment of not more than 2 years, or both. Any person who *knowingly* violates such sections, or such conditions or limitations is subject to criminal penalties of \$5,000 to \$50,000 per day of violation, or imprisonment for not more than 3 years, or both. In the case of a second or subsequent conviction for a knowing violation, a person shall be subject to criminal penalties of not more than \$100,000 per day of violation, or imprisonment of not more than 6 years, or both. Any person who knowingly violates section 301, 302, 303, 306, 307, 308, 318 or 405 of the Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of the Act, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall, upon conviction, be subject to a fine of not more than \$250,000 or imprisonment of not more than 15 years, or both. In the case of a second or subsequent conviction for a knowing endangerment violation, a person shall be subject to a fine of not more than \$500,000 or by imprisonment of not more than 30 years, or both. An organization, as defined in section 309(c)(3)(B)(iii) of the CWA, shall, upon conviction of violating the imminent danger provision, be subject to a fine of not more than \$1,000,000 and can be fined up to \$2,000,000 for second or subsequent convictions.



B. Penalties for Violations of Permit Conditions. (Continued)

2. Any person may be assessed an administrative penalty by the Administrator for violating section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act. Administrative penalties for Class I violations are not to exceed \$11,000 per violation, with the maximum amount of any Class I penalty assessed not to exceed \$27,500. Penalties for Class II violations are not to exceed \$11,000 per day for each day during which the violation continues, with the maximum amount of any Class II penalty not to exceed \$137,500.

- C. Need to Halt or Reduce Activity not a Defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- D. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
- E. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit. However, the permittee shall operate, as a minimum, one complete set of each main line unit treatment process whether or not this process is needed to achieve permit effluent compliance.
- F. Removed Substances. Collected screenings, grit, solids, sludge, or other pollutants removed in the course of treatment shall be buried or disposed in a manner consistent with all applicable federal, state, and tribal regulations (i.e., 40 CFR 257, 40 CFR 258, 40 CFR 503) and in a manner so as to prevent any pollutant from entering any waters of the United States or creating a health hazard. **If one-time sludge disposal is necessary, written permission must be obtained from the permit issuing authority prior to disposal. Whether or not permission is granted will be based on the review of a one-time sludge disposal plan submitted by the permittee.** Sludge/digester supernatant and filter backwash shall not be directly blended with or enter either the final plant discharge and/or waters of the United States.
- G. Bypass of Treatment Facilities.
  1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2. and 3. of this section.

G. Bypass of Treatment Facilities. (Continued)

## 2. Notice:

- a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least 10 days before the date of the bypass to the EPA Region VIII Technical Enforcement Program and to the Crow Creek Sioux Tribe (see Part VI.H.3. for addresses).
- b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part VI.H., Twenty-four Hour Notice of Noncompliance Reporting, to the EPA Region VIII Technical Enforcement Program and to the Crow Creek Sioux Tribe.

## 3. Prohibition of bypass.

- a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:
  - (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and,
  - (3) The permittee submitted notices as required under paragraph 2. of this section.
- b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in paragraph 3.a. of this section.

H. Upset Conditions

1. Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of paragraph 2. of this section are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review (i.e., Permittees will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with technology-based permit effluent limitations).

H. Upset Conditions (Continued)

2. Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and that the permittee can identify the cause(s) of the upset;
  - b. The permitted facility was at the time being properly operated;
  - c. The permittee submitted notice of the upset as required under Part VI.H., Twenty-four Hour Notice of Noncompliance Reporting; and,
  - d. The permittee complied with any remedial measures required under Part VII.D., Duty to Mitigate.
3. Burden of proof. In any enforcement proceeding, the permittee seeking to establish the occurrence of an upset has the burden of proof.

I. Industrial Wastes

1. Each significant industrial user must be identified as to qualitative and quantitative characteristics of the discharge as well as production data. A significant industrial user is defined as an industrial user discharging to a publicly owned treatment works (POTW) that satisfies any of the following: (1) has a process wastewater flow of 25,000 gallons or more per average work day; (2) has a flow greater than five percent of the flow carried by the municipal system receiving the waste; (3) has in its waste a toxic pollutant in toxic amounts as defined under Section 307(a) of the Clean Water Act of 1977, as amended, or is otherwise standard developed under Section 307(b) of the Act; or, (4) is found by the permit issuing authority to have a significant impact on the treatment works or the quality of effluent from the POTW.
2. The permittee must notify the permitting authority of any new introductions by new or existing significant industrial users or any substantial change in pollutants from any significant industrial user. Such notice must contain the information described in paragraph 1. above and be forwarded no later than sixty (60) days following the introduction or change.
3. Pretreatment Standards (40 CFR 403.5) developed pursuant to Section 307 of the Act require that under no circumstances shall the permittee allow the introduction of the following pollutants to the waste treatment system from any source of nondomestic discharge:
  - a. Pollutants which create a fire or explosion hazard in the publicly owned treatment works (POTW), including but not limited to, wastestreams with a closed cup flashpoint of less than sixty (60) degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21;
  - b. Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.0, unless the works are specifically designed to accommodate such discharges;

I. Industrial Wastes (Continued)

- c. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW, or other interference with the operation of the POTW;
  - d. Any pollutant, including oxygen demanding pollutants (e.g., BOD), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;
  - e. Heat in amounts which will inhibit biological activity in the POTW resulting in interference but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds forty (40) degrees Centigrade (104 degrees Fahrenheit);
  - f. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
  - g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - h. Any trucked or hauled pollutants, except at discharge points designated by the POTW; and,
  - i. Any pollutant that causes pass-through or interference.
4. In addition to the general limitations expressed above, more specific pretreatment limitations have been and will be promulgated for specific industrial categories under Section 307 of the Act. (See 40 CFR, Subchapter N, Parts 400 through 500, for specific information.)
5. The permittee shall provide adequate notice to the Director of:
- a. Any new introduction of pollutants into the treatment works from an indirect discharger (i.e., industrial user) which would be subject to Sections 301 or 306 of the Act if it were directly discharging those pollutants;
  - b. Any substantial change in the volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the treatment works at the time of issuance of the permit; and
  - c. For the purposes of this section, adequate notice shall include information on:
    - (1) The quality and quantity of effluent to be introduced into such treatment works; and,
    - (2) Any anticipated impact of the change on the quantity or quality of effluent to be discharged from such publicly owned treatment works.

I. Industrial Wastes (Continued)

6. At such time as a specific pretreatment limitation becomes applicable to an industrial user of the permittee, the permit issuing authority may, as appropriate, do the following:
  - a. Amend the permittee's NPDES discharge permit to specify the additional pollutant(s) and corresponding effluent limitation(s) consistent with the applicable national pretreatment limitation or require the permittee to obtain an individual NPDES permit;
  - b. Require the permittee to specify, by ordinance, permit, or similar means, the type of pollutant(s) and the maximum amount which may be discharged to the permittee's facility for treatment. Such requirement shall be imposed in a manner consistent with the POTW program development requirements of the General Pretreatment Regulations at 40 CFR Part 403; and/or,
  - c. Require the permittee to monitor its discharge for any pollutant which may likely be discharged from the permittee's facility, should the industrial user fail to properly pretreat its waste.
7. The permit issuing authority retains, at all times, the right to take legal action against the industrial user and/or the treatment works, in those cases where a NPDES permit violation has occurred because of the failure of an industrial user to discharge at an acceptable level.

## GENERAL REQUIREMENTS

- A. Planned Changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when:
1. The alteration or addition could significantly change the nature or increase the quantity of pollutant discharged. This notification applies to pollutants which are not subject to effluent limitations in the permit; or,
  2. There are any planned substantial changes to the existing sewage sludge facilities, the manner of its operation, or to current sewage sludge management practices of storage and disposal. The permittee shall give the Director notice of any planned changes at least 30 days prior to their implementation.
  3. The alteration or addition to a permitted facility may meet one of the criteria for determining whether a facility is a new source.
- B. Anticipated Noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- C. Permit Actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- D. Continuation of the Expired General Permit. This permit expires five years after the effective date. However, an expired general permit may continue in force and effect. If a permittee wants to retain coverage under the continued permit until a new general permit is issued, the permittee must submit a letter to EPA containing the following:
1. Name, address, and telephone number of the operator of the facility;
  2. The existing permit number for the facility; and,
  3. A request that the facility be provided coverage under the continued permit until a new general permit is issued.

The letter must be signed in accordance with Part VIII.G., Signatory Requirements, and mailed to the following address no later than thirty (30) days before the expiration date of the permit:

STATE ASSISTANCE PROGRAM (8P-SA)  
ATTENTION: NPDES PERMITS  
U.S. EPA, REGION VIII  
999 18TH STREET, SUITE 500  
DENVER, CO 80202-2466

- E. Duty to Provide Information. The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- F. Other Information. When the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or any report to the Director, it shall promptly submit such facts or information.
- G. Signatory Requirements. All applications, reports or information submitted to the Director shall be signed and certified.
1. All permit applications shall be signed by either a principal executive officer or ranking elected official.
  2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
    - a. The authorization is made in writing by a person described above and submitted to the Director; and,
    - b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
  3. Changes to authorization. If an authorization under paragraph IV.G.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph IV.G.2. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.
  4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

- H. Penalties for Falsification of Reports. The Act provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than six months per violation, or by both.
- I. Availability of Reports. Except for data determined to be confidential under 40 CFR Part 2, all reports prepared in accordance with the terms of this permit shall be available for public inspection at the offices of the Director (for MT permits use Montana Office). As required by the Act, permit applications, permits and effluent data shall not be considered confidential.
- J. Oil and Hazardous Substance Liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under Section 311 of the Act.
- K. Property Rights. The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of federal, state, tribal or local laws or regulations.
- L. Severability. The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby.
- M. Transfers. This permit may be automatically transferred to a new permittee if:
1. The current permittee notifies the Director at least 30 days in advance of the proposed transfer date;
  2. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them; and,
  3. The Director does not notify the existing permittee and the proposed new permittee of his or her intent to modify, or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph 2. above.
- N. Permittees in Indian Country. Permittees in Indian Country, as defined by 18 U.S.C. §1151 are generally subject to tribal and/or federal jurisdiction. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties available under applicable federal or tribal laws or regulations.



- O. Reopener Provision. This permit may be reopened and modified (following proper administrative procedures) to include the appropriate effluent limitations (and compliance schedule, if necessary), or other appropriate requirements if one or more of the following events occurs:
1. Water Quality Standards: The water quality standards of the receiving water(s) to which the permittee discharges are modified in such a manner as to require different effluent limits than contained in this permit.
  2. Wasteload Allocation: A wasteload allocation is developed and approved by the Crow Creek Sioux Tribe and/or EPA for incorporation in this permit.
  3. Water Quality Management Plan: A revision to the current water quality management plan is approved and adopted which calls for different effluent limitations than contained in this permit.
  4. Sewage Sludge: There have been substantial changes (or such changes are planned) in sludge use or disposal practices; applicable management practices or numerical limitations for pollutants in sludge have been promulgated which are more stringent than the requirements in this permit; and/or it has been determined that the permittee's sludge use or disposal practices do not comply with existing applicable state, tribal or federal regulations.
- P. Toxicity Limitation-Reopener Provision.
- This permit may be reopened and modified (following proper administrative procedures) to include whole effluent toxicity limitations if whole effluent toxicity is detected in the discharge.
- Q. Requiring an individual permit or an alternative general permit.
1. The Director may require any person authorized by this permit to apply for and/or obtain either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition the Director to take action under this paragraph. Where the Director requires a discharger authorized to discharge under this permit to apply for an individual NPDES permit, the Director shall notify the discharger in writing that a permit application is required. This notification shall include a brief statement of the reasons for this decision, an application form, a statement setting a deadline for the discharger to file the application, and a statement that on the effective date of issuance or denial of the individual NPDES permit or the alternative general permit as it applies to the individual permittee, coverage under this general permit shall automatically terminate. Applications shall be submitted to the address given in Part II.C. of this permit. The Director may grant additional time to submit the application upon request of the applicant. If a discharger fails to submit in a timely manner an individual NPDES permit application as required by the Director under this paragraph, then the applicability of this permit to the individual NPDES permittee is automatically terminated at the end of the day specified by the Director for application submittal.

Q. Requiring an individual permit or an alternative general permit. (Continued)

2. Any discharger authorized by this permit may request to be excluded from the coverage of this permit by applying for an individual permit. In such cases, the permittee shall submit an individual application in accordance with the requirements of 40 CFR 122.21, with reasons supporting the request, to the Director at the address given in Part II.C. of this permit. The request may be granted by issuance of any individual permit or an alternative general permit if the reasons cited by the permittee are adequate to support the request.
3. When an individual NPDES permit is issued to a discharger otherwise subject to this permit, or the discharger is authorized to discharge under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit, whichever the case may be. When an individual NPDES permit is denied to an owner or operator otherwise subject to this permit, or the owner or operator is denied for coverage under an alternative NPDES general permit, the applicability of this permit to the individual NPDES permittee is automatically terminated on the date of such denial, unless otherwise specified by the Director.

Definitions.

- A. The "30-day (and monthly) average," other than for fecal coliform bacteria and total coliform bacteria, is the arithmetic average of all samples collected during a consecutive 30-day period or calendar month, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria and total coliform bacteria. The calendar month shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms.
- B. The "7-day (and weekly) average," other than for fecal coliform bacteria and total coliform bacteria, is the arithmetic mean of all samples collected during a consecutive 7-day period or calendar week, whichever is applicable. Geometric means shall be calculated for fecal coliform bacteria and total coliform bacteria. The 7-day and weekly averages are applicable only to those effluent characteristics for which there are 7-day average effluent limitations. The calendar week, which begins on Sunday and ends on Saturday, shall be used for purposes of reporting self-monitoring data on discharge monitoring report forms. Weekly averages shall be calculated for all calendar weeks with Saturdays in the month. If a calendar week overlaps two months (i.e., the Sunday is in one month and the Saturday in the following month), the weekly average calculated for that calendar week shall be included in the data for the month that contains the Saturday.
- C. "Daily Maximum" ("Daily Max.") is the highest allowable discharge during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of pollutants discharged over the calendar day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the calendar day. If only one measurement or sample is taken during the calendar day, that will be considered the average for the calendar day.
- D. "Composite samples" shall be flow proportioned. The composite sample shall, as a minimum, contain at least four (4) samples collected over the compositing period. Unless otherwise specified, the time between the collection of the first sample and the last sample shall not be less than six (6) hours nor more than 24 hours. Acceptable methods for preparation of composite samples are as follows:
  - a. Constant time interval between samples, sample volume proportional to flow rate at time of sampling;
  - b. Constant time interval between samples, sample volume proportional to total flow (volume) since last sample. For the first sample, the flow rate at the time the sample was collected may be used;
  - c. Constant sample volume, time interval between samples proportional to flow (i.e., sample taken every "X" gallons of flow); and,
  - d. Continuous collection of sample, with sample collection rate proportional to flow rate.

- E. A "grab" sample, for monitoring requirements, is defined as a single "dip and take" sample collected at a representative point in the discharge stream.
- F. An "instantaneous" measurement, for monitoring requirements, is defined as a single reading, observation, or measurement.
- G. "Act" means the Clean Water Act (CWA) or the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et. seq.
- H. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
- I. "Director" means the Regional Administrator of EPA Region VIII or an authorized representative.
- J. "EPA" means the United States Environmental Protection Agency.
- K. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- L. "Sewage sludge" is any solid, semi-solid or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not limited to, domestic septage; scum or solids removed in primary, secondary or advanced wastewater treatment processes; and a material derived from sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.
- M. "Unauthorized Releases" mean the discharge of water from the lower end of the treatment or containment system through a release structure or over or through retention dikes when the permit requires "no discharge" (Category 3) or the permit requires "permission to discharge" (Category 2) and permission has not been granted for that discharge. For Category 2 and Category 3 facilities, an unauthorized release is distinguished from a bypass in that a bypass discharges wastewater prior to the wastewater entering the wastewater lagoon system.
- N. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- O. "Wastewater lagoon system" means waste stabilization pond(s), oxidation pond(s), facultative pond(s), aerated pond(s), aerobic or anaerobic pond(s), or similar treatment system.

## FORMAT FOR REPORTING EFFLUENT MONITORING DATA FOR UNAUTHORIZED RELEASES

Permittee Name: \_\_\_\_\_  
\_\_\_\_\_

NPDES Permit No.: \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name of Facility Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

When discharge started or discovered: \_\_\_\_\_ (time, date)  
End of Discharge: \_\_\_\_\_ (time, date)Time & date 24-Hour Notice of Noncompliance given to EPA & Tribe  
\_\_\_\_\_Describe Location of Discharge (use attachment if insufficient space)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_**ANALYTICAL RESULTS**

	Sample No. 1	Sample No. 2	Sample No. 3	Sample No. 4
Date of Sample				
Time of Sample				
Flow while Sampling, gpm				
BOD <sub>5</sub> , mg/L				
TSS, mg/L				
pH, s.u.				
Oil and grease, Visual				
Oil and Grease, mg/L b/				

**I certify under penalty of law that I have personally examined and am familiar with the information submitted herein based on my inquiry of those individual(s) directly responsible for obtaining the information. The information submitted is, to the best of my knowledge, true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.**

Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_